

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

In the matter of:

Telephone Number Portability

CC Docket No. 95-116

**REPLY COMMENTS OF THE CALIFORNIA PUBLIC UTILITIES  
COMMISSION AND OF THE PEOPLE OF THE STATE OF CALIFORNIA**

The California Public Utilities Commission and the People of the State of California (CPUC or California) submit these Reply Comments in Response to the Petition for Declaratory Ruling (Petition) of the Cellular Telecommunications & Internet Association (CTIA), filed on January 23, 2003.

**I. THE COMPLIANCE DEADLINE FOR WIRELESS LOCAL  
NUMBER PORTABILITY NEED NOT AND SHOULD NOT BE  
DELAYED**

A number of commenting parties concurred with the CPUC in asserting that regardless of how the FCC resolves the issue CTIA has identified, the deadline for wireless local number portability (LNP) need not be delayed pending FCC resolution.<sup>1</sup> CUB framed the argument most succinctly:

The rate center disparity affects service provider portability within the wireline industry, as well as between wireless and wireline carriers. It does not, however, affect wireless-to-wireless

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<sup>1</sup> See Comments of WorldCom, Inc., Public Utilities Commission of Ohio, The Illinois Citizens Utility Board (CUB). See also Comments of Nextel, which urges the FCC to resolve the rate center issue “well in advance of [wireless LNP] deployment”, but does not advocate that the deadline be deferred if the issue is not resolved. Nextel Comments, p. 5.

portability. The implementation of LNP in the wireless industry would greatly serve competition in the wireless industry, as well as the public interest, and therefore should proceed as scheduled. (CUB Comments, p. 6.)

CUB's point is, of course, absolutely correct. The CPUC agreed in its February 26<sup>th</sup> Comments, and still believes, that CTIA has identified a legitimate policy issue for the FCC to resolve. At the same time, California cannot agree more that CTIA's petition is a "red herring" because it is focused on an issue pertaining only to wireline-to-wireless LNP. The wireless industry is well aware that the immediate competitive threat to CTIA's members is competition between and among wireless carriers. Such competition would force wireless carriers to provide quality service and customer care, and such competition can only evolve when customers are free to take telephone numbers from one wireless carrier to another.

Further, as California noted in its February Comments, the rate center disparity issue is not a technical issue. As CUB points out, and the CPUC agrees, the rate center issue is a problem not "of inconsistent rate centers as the wireless industry would have it, but of asymmetric billing systems".<sup>2</sup> This is because wireline carrier rating and routing, being distance sensitive, are tied to the traditional rate center structure. In contrast, wireless carrier billing is based on minutes of use, and not on distance sensitivity. It would be foolish for the FCC to deprive wireless customers of the opportunity to port their service to competing wireless carriers on the theory that some wireline customers might be inconvenienced by a wireline carrier's refusal to port the customer's number to a different rate center.<sup>3</sup>

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<sup>2</sup> CUB Comments, p. 5.

<sup>3</sup> In any event, as the CPUC noted in its February 25<sup>th</sup> Comments, the industry has developed a conflict resolution process for addressing carrier conflicts pertaining to carrier requests to port numbers.

## **II. WIRELINE, NOT WIRELESS, CARRIERS WILL BE DISADVANTAGED BY WIRELINE-TO-WIRELESS LNP**

CTIA's petition is premised on the notion that wireless carriers will be severely disadvantaged by wireline-to-wireless LNP because wireline carriers will refuse to port customer numbers to a wireless carrier's facilities in a remote rate center. In our February 25<sup>th</sup> Comments, the CPUC acknowledged that this concern is legitimate. At the same time, however, California notes BellSouth's point that "the difference in porting capabilities between wireless and wireline service providers . . . creates a significant competitive disadvantage to wireline service providers".<sup>4</sup> BellSouth goes on to explain the problem for wireline carriers:

The rationale behind this statement is that, because wireless carriers' service territories are not tied to rate centers, porting from a wireline to wireless provider is virtually unlimited. The customer's physical location is irrelevant when porting to or among wireless carriers. By contrast, porting from a wireless to a wireline provider is subject to limitations. Specifically, the end user must be physically located within the rate center associated with the NPA-NXX of the telephone number in order to effectuate a port to a wireline carrier. Clearly, this situation disadvantages wireline carriers – a fact that CTIA conveniently ignores.<sup>5</sup>

Despite perceiving this problem, BellSouth concludes that "number portability from wireline carriers to wireless carriers can still occur despite the "rate center disparity issue".<sup>6</sup>

California remains a staunch supporter of full LNP, for all carriers, but acknowledges that wireless-to-wireline portability poses the dilemma BellSouth identifies. It is correct that a wireless customer seeking to port to a wireline carrier faces circumstances the wireline customer seeking to port to a wireless carrier does not. The wireless customer trying to port to a wireline

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<sup>4</sup> BellSouth Comments, p. 3, quoting a May 1998 NANC Report on Wireless/Wireline LNP Integration.

<sup>5</sup> Id.

<sup>6</sup> Id. The CPUC disagrees with BellSouth's recommendation that, if the FCC cannot resolve the rate center disparity issue by the LNP mandate deadline, "it should consider an extension of the implementation date for wireless LNP until the "rate center disparity" issue is settled". Id. at 4.

carrier may have to take a full seven-digit number change, while the converse would not be true. Given these facts, which are incontrovertible, CTIA's complaining about wireline-to-wireless porting is ironic indeed.

Further, the solution to the problem BellSouth highlights is not to foreclose number portability between industry segments. Rather, the FCC should view this as an incremental process. First, wireline-to-wireline portability developed, soon to be followed by wireline-to-wireless portability. Wireless-to-wireline portability is not foreclosed by existing protocols, but it poses an associated technical limitation. In time, that technical limitation can be corrected with the development of location portability. To delay full LNP until that day has arrived would be tantamount to holding the hands on the clock in place while technology continues to evolve.

### **III. THE RATE CENTER ISSUE REQUIRES A POLICY, NOT A TECHNICAL DETERMINATION**

No party has identified a technical issue requiring FCC resolution prior to the November 24, 2002 wireless LNP compliance deadline. The FCC should not allow itself to be paralyzed by the competing interests of the wireline and wireless industry segments. The FCC has already determined, on several occasions, that customers in all industry sectors should have the ability to change service providers and take phone numbers from one provider to another. Now is not the moment to pause and reconsider that policy determination.

LNP for wireless customers will offer the opportunity for real competition between wireless service providers, who will rapidly become aware that a customer can change to another carrier without being hindered by the need to change telephone numbers. This will spur wireless carriers to offer better deals. Price is not the only factor on which customers make competitive choices. Whether a contract is required, whether the customer will be subject to an early

termination fee, whether the customer can get good customer care are all important terms and conditions of service which factor into a customer's decision to choose a particular carrier.

#### **IV. CONCLUSION**

The FCC should resolve the "rate center disparity" issue identified in CTIA's petition, but should not defer the wireless LNP compliance deadline in order to do so.

Respectfully submitted,

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March 13, 2003